

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 C.A. No. CV-0401945 (JBW) (SMG)

4 * * * * *

5 BARBARA SCHWAB, et al, Individually *
6 and on behalf of a class of all *
7 others similarly situated, *
8 Plaintiffs *

9 v. *

10 PHILIP MORRIS USA, INC., et al, *
11 Defendants *

12 * * * * *

13 PAGES 1-

14 VIDEOTAPED DEPOSITION OF SHELLEY R.
15 SCHUSSHEIM, a witness called on behalf of
16 the Defendant R.J. Reynolds Tobacco Company,
17 pursuant to the Federal Rules of Civil
18 Procedure, before Jessica L. Williamson,
19 Registered Merit Reporter, Certified
20 Realtime Reporter and Notary Public in and
21 for the Commonwealth of Massachusetts, at
22 the Offices of Goodwin Procter, LLC, 53
23 State Street, Boston, Massachusetts, on
24 Tuesday, May 10, 2006, commencing at 9:14
25 a.m.

<p style="text-align: right;">Page 18</p> <p>1 A. Loose. 2 Q. What is the loose reporting structure? 3 A. Most people report in to the president of 4 the company, but different people are 5 responsible for training people in different 6 tasks and for developing performance reviews 7 and sort of decided on an ongoing basis. 8 Q. Now, John Hauser's a consultant to AMS; 9 isn't that correct? 10 A. Yes. 11 Q. Are there any other consultants to AMS? 12 A. I'm not quite sure what that question means. 13 Q. Is there anyone else that has the title of 14 consultant or senior consultant to AMS? 15 A. There are people with the title of senior 16 consultant in AMS. 17 Q. Oh, I see. How many of those are there? 18 A. I believe there are two people that have 19 that title. 20 Q. Who were they? 21 A. Steve Gaskin and Derby Swanson. 22 Q. Are there any other professionals at AMS? 23 A. By "professionals".. 24 Q. I mean others who -- well, what other kinds 25 of employees do you have at AMS?</p>	<p style="text-align: right;">Page 20</p> <p>1 survey and collecting the data on the 2 survey, survey research project. 3 Q. Were any apart from this a conjoint 4 analysis? 5 A. No. 6 Q. Have you ever worked on a conjoint 7 analysis -- 8 A. No. 9 Q. -- other than this? 10 A. No. 11 Q. You'll have to wait for the question to be 12 asked, okay, so -- 13 A. Okay. Sorry. 14 Q. That's okay. Have you reviewed the 15 literature, any of the scholarly literature 16 on conjoint analysis? 17 A. Not much. In a very cursory way. 18 Q. Now, this case involved cigarettes. And you 19 conducted some interviews regarding people's 20 purchasing habits and choices, correct? 21 A. Correct. 22 Q. Have you ever purchased cigarettes in your 23 life? 24 A. Yes. 25 Q. What brands?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. We have people who are project directors. 2 We have financial, marketing, people who are 3 in charge of technology. We have someone 4 who is -- I don't know what her title is, 5 but she directs all of the, what we call 6 field operations, sort of people who collect 7 data, and she coordinates that. Office 8 management and assorted interny (sic) kind 9 of helper administrative/junior people. 10 Q. Now, have you ever worked on a project apart 11 from the cigarette project with John Hauser? 12 A. Yes. 13 Q. What other projects have you worked on with 14 him? 15 A. What other ones? 16 Q. Yes. 17 A. I've worked on -- should I name some? Is 18 that -- 19 Q. Yeah. Well, how many would you say you've 20 worked on? 21 A. Probably more than a dozen, maybe a dozen to 22 20, in some capacity. 23 Q. What kinds of projects have they been? 24 A. Almost all or most of them have been 25 projects to -- involved in developing a</p>	<p style="text-align: right;">Page 21</p> <p>1 A. This is going back. 2 Q. Yeah. 3 A. Marlboro. What kind of names? That I know. 4 Some with the yellow bar across it -- well, 5 this is going back in time. 6 Q. Yes, yes. Were any called lights? Were any 7 brands called lights? 8 A. Yes. As a matter of fact, when I stopped 9 smoking I was -- I think I was smoking 10 something called Barclay. 11 Q. Okay. But that wasn't called light, it was 12 a low tar cigarette, but it wasn't called 13 light? 14 A. Oh, it wasn't called a light? You know, I 15 don't recall. 16 Q. Okay. Did you ever smoke Camel Filters? 17 A. Not that I recall. 18 Q. Or Camel Light? 19 A. You know, not that I recall. 20 Q. Or Camel regular? 21 A. No, not that I recall. 22 Q. Okay. Now, before you were engaged on the 23 project for plaintiffs' counsel -- 24 A. Right. 25 Q. -- had you ever had any prior experience</p>

<p style="text-align: right;">Page 22</p> <p>1 doing research in the cigarette industry?</p> <p>2 A. No, I didn't.</p> <p>3 Q. Had you ever reviewed the advertising of the</p> <p>4 cigarette industry?</p> <p>5 A. Not as part of my job, no.</p> <p>6 Q. Had you ever reviewed marketing in the</p> <p>7 cigarette industry?</p> <p>8 A. No.</p> <p>9 Q. Had you ever reviewed polls or surveys</p> <p>10 conducted of cigarette consumers?</p> <p>11 A. Reviewed, I mean, I'm sure I've seen things,</p> <p>12 but, no, I never reviewed it.</p> <p>13 Q. You never reviewed them with the thought to</p> <p>14 using them in your work?</p> <p>15 A. Correct. Correct.</p> <p>16 Q. And you don't recall which polls they were,</p> <p>17 as we sit here today?</p> <p>18 A. No.</p> <p>19 Q. Do you -- excuse me, do you review many</p> <p>20 outside polls in your work?</p> <p>21 A. It depends.</p> <p>22 Q. Occasionally do you review the Gallup polls?</p> <p>23 A. I may have. I mean, that's not a standard.</p> <p>24 Q. Which polls are a standard that you review?</p> <p>25 A. There isn't.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Yeah, I was not involved in that.</p> <p>2 Q. You weren't involved in dealing with</p> <p>3 Greenfield Online?</p> <p>4 A. (No verbal response.)</p> <p>5 Q. Were you involved in drafting the</p> <p>6 questionnaire that was used in this survey?</p> <p>7 A. No.</p> <p>8 Q. Oh, you had no involvement?</p> <p>9 A. I've never seen the survey.</p> <p>10 Q. I see. Were you involved in the pretests</p> <p>11 for the survey?</p> <p>12 A. No.</p> <p>13 Q. You were involved in the qualitative</p> <p>14 interviews for the survey, though, weren't</p> <p>15 you?</p> <p>16 A. Correct.</p> <p>17 Q. So let's see if we can define your roles on</p> <p>18 this survey.</p> <p>19 A. Okay.</p> <p>20 Q. You were involved administratively in</p> <p>21 dealing with plaintiffs' counsel initially</p> <p>22 in bringing the survey and the work to AMS;</p> <p>23 is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. How long did you continue in that capacity?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. Now, you've -- although this case was</p> <p>2 the first to involve a conjoint analysis for</p> <p>3 you, it's not the first to involve a survey;</p> <p>4 is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. How many surveys have you been involved in,</p> <p>7 that you can recall, approximate number?</p> <p>8 A. Dozens.</p> <p>9 Q. How were -- let's talk about how the</p> <p>10 respondents to those surveys have been</p> <p>11 selected. Have some been selected by random</p> <p>12 digit dialing?</p> <p>13 A. Yes.</p> <p>14 Q. Have some been selected in -- by being</p> <p>15 approached at a mall or --</p> <p>16 A. Yes.</p> <p>17 Q. -- shopping center?</p> <p>18 Have others been selected by opting in</p> <p>19 on the Internet?</p> <p>20 MR. LANDAU: Objection to form.</p> <p>21 A. Yeah, I'm not quite sure.</p> <p>22 Q. Okay. In this case Greenfield Online</p> <p>23 provided you with access to their group of</p> <p>24 people who participate in surveys; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Continue?</p> <p>2 Q. That is, dealing with plaintiffs' counsel?</p> <p>3 MR. LANDAU: Objection to form.</p> <p>4 A. I don't recall exactly, but typically</p> <p>5 through signing some engagement letter.</p> <p>6 Q. And you also performed qualitative</p> <p>7 interviews?</p> <p>8 A. Correct.</p> <p>9 Q. You did not work with Greenfield at all; is</p> <p>10 that correct?</p> <p>11 A. No.</p> <p>12 Q. Have you worked with any other providers of</p> <p>13 Internet-based surveys such as Knowledge</p> <p>14 Networks or Harris Online?</p> <p>15 MR. LANDAU: Objection to form.</p> <p>16 A. For this study?</p> <p>17 Q. Not for this case, for other studies.</p> <p>18 A. I've worked with other Internet companies,</p> <p>19 yes.</p> <p>20 Q. Which ones have you worked with?</p> <p>21 A. Well, actually, I worked -- I mean, actually</p> <p>22 didn't engage in, but I've talked with</p> <p>23 Harris, another company called e-Rewards, e,</p> <p>24 dash, Rewards, Greenfield. And working is,</p> <p>25 just to qualify, I don't necessarily have</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Okay. Did you talk to him only once about 2 the interviews? 3 A. I don't recall. I recall talking to John 4 Hauser. I don't recall if that was once or 5 more than once. 6 Q. Okay. Where did the interviews take place? 7 A. They take -- took place at a facility, 8 another company we use, and I don't know at 9 that time if it was in Natick or Framingham. 10 They moved their offices, and I -- a 11 suburban town in Boston. 12 Q. Last line, "If you could buy light 13 cigarettes that were just as dangerous as 14 regular cigarettes, how much less would you 15 pay for them than light cigarettes that are 16 actually safer?" 17 Do you see that? 18 A. (No verbal response.) 19 Q. Do you recall asking that question? 20 A. I recall -- I don't recall anything specific 21 from the interviews. 22 Q. Okay. 23 A. Okay? 24 Q. So you don't recall asking that question? 25 A. I don't recall my conversations in the</p>	<p style="text-align: right;">Page 76</p> <p>1 hypotheses as to the attributes that smokers 2 used in choosing to decide the -- in 3 choosing to smoke the cigarettes they did? 4 MR. LANDAU: Objection to form. 5 A. I believe we did. 6 Q. What were those hypotheses? 7 A. Well, I believe, as I said, that tastes 8 matter to them and, you know, whether 9 something was more or less healthy and, you 10 know -- I mean, I don't remember exactly, 11 but whether they wanted a soft or hard pack, 12 but it seems like they were things that may 13 be like what's on this. 14 Q. Did you participate in developing those 15 hypotheses? 16 A. I was in conversations about that, yeah. 17 Q. Did you do any research of any kind in 18 developing the hypotheses before the 19 interviews? 20 A. I don't recall if I read anything, you 21 know, if I did, and if I did, what I read. 22 I don't recall. 23 Q. Did you do any Internet research on that? 24 A. I don't recall. 25 Q. Did you do any research on cigarette</p>
<p style="text-align: right;">Page 75</p> <p>1 interviews. I just recall some of the 2 impressions I've shared with you. 3 Q. Now, after that it says, "Work on wording of 4 question with respondent." 5 A. Correct. 6 Q. Did you take any notes on the recording of 7 that question as suggested by the 8 respondents -- 9 MR. LANDAU: Objection -- 10 Q. -- that you interviewed? 11 MR. LANDAU: Objection to form. 12 A. I don't recall taking notes, I mean, in the 13 interviews. 14 Q. Did you ask to see the questionnaire that 15 was developed after the interviews? 16 A. I've never seen the questionnaire. 17 Q. Did you ask to see it? 18 A. Did I ask to see it? I don't recall if I 19 ever asked to see it. I mean, if I didn't 20 see it -- I think if I asked to see it, I 21 would see it. 22 (Pause.) 23 MR. GROSSMAN: A little flare-up of 24 my allergies. 25 Q. Did you go into the interviews with any</p>	<p style="text-align: right;">Page 77</p> <p>1 advertising? 2 A. I don't recall, but I believe -- I don't 3 believe I did -- 4 Q. Okay. 5 A. -- ever did that. 6 Q. Now, you understand it's necessary in an 7 analysis of this kind to test for the right 8 attributes, don't you? 9 MR. LANDAU: Objection to form. 10 A. "An analysis of this kind" meaning? 11 Q. A conjoint analysis. 12 A. Yes. 13 Q. You understand it's necessary to test for 14 the right attributes? 15 MR. LANDAU: Objection to form. 16 A. I understand that it's necessary to choose 17 correct attributes, yes, relevant 18 attributes, yes. 19 Q. And you understood that your interviews, as 20 well as Mr. Gaskin's interviews, were almost 21 the sole basis upon which the attributes 22 would be selected, didn't you? 23 A. I understood it was a -- 24 MR. LANDAU: Objection to form. 25 A. -- starting point.</p>